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Chairman: Mr. Anshor (Vice-Chairman) ..... (Indonesia)

Contents

Agenda item 71: Human rights questions (*continued*)*

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*)*

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*)*

(e) Report of the United Nations High Commissioner for Human Rights (*continued*)*

* Items which the Committee has decided to consider together.

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In the absence of Mr. Butagira (Uganda), Mr. Anshor (Indonesia), Vice-Chairman, took the Chair.

The meeting was called to order at 3.10 p.m.

Agenda item 71: Human rights questions (*continued*) (A/60/40, 44, 129, 336, 392 and A/60/408-S/2005/626)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/60/134, 266, 272, 286, 299, 301 and Add.1, 305, 321, 326, 333, 338 and Corr.1, 339 and Corr.1, 340, 348, 350, 353, 357, 374, 384, 392, 399 and 431; A/C.3/60/3)

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*) (A/60/221, 271, 306, 324, 349, 354, 356, 359, 367, 370, 395 and 422; A/C.3/60/2)

(e) Report of the United Nations High Commissioner for Human Rights (*continued*) (A/60/36 and 343)

1. **The Chairman** invited the Committee to resume its dialogue with the Special Rapporteur of the Commission on Human Rights on the right to food.

2. **Mr. Koubaa** (Tunisia) expressed his delegation's support for the recommendations contained in the report of the Special Rapporteur (A/60/350). He requested more information on cases where States which generally supported human rights had at times to give precedence to commercial concerns and on ways of implementing the Special Rapporteur's recommendation in paragraph 55 (g) on the obligation of international organizations to refrain from promoting policies that negatively impacted the right to food.

3. **Mr. La Yifan** (China) said his delegation was distressed by the tragic scenes of famine in Africa and other areas of the world which, at the beginning of the new millennium, were a scar on the conscience of humanity. He asked the Special Rapporteur's opinion on the likelihood of the implementation of the Millennium Development Goals which were relevant to his mandate.

4. **Mr. Manis** (Sudan) said that the international community shared responsibility for policies which had led to famine in many countries in Africa. The right to food was especially important for the developing countries, and he therefore welcomed the report of the Special Rapporteur. Noting that negotiations were under way on the establishment of the new Human Rights Council to replace the Commission on Human Rights, he stressed that any reform of the human rights system must restore the balance between political, civil, economic, social and cultural rights in order to be credible. In that context, he wondered if the Special Rapporteur could envisage a day when the Human Rights Council might be empowered to convene emergency meetings to deal with violations of the right to food and the right to development.

5. **Ms. García Matos** (Bolivarian Republic of Venezuela) noted that her country had been acting on many of the issues mentioned in the report of the Special Rapporteur and planned to continue its assistance to African countries. She wondered to what extent the adjustment policies of the World Bank and the International Monetary Fund (IMF) were exacerbating the problems of food security.

6. **Ms. Levin** (United States of America) stated that her country supported the Millennium Development Goals and the aim of cutting hunger and poverty in half. The United States of America was the world's largest donor of food aid, having given US$ 2.6 billion for that purpose, and its Government had pledged a further US$ 674 million worth of aid in response to humanitarian emergencies in Africa. Through the United States Agency for International Development (USAID), it was supporting efforts to boost agricultural productivity. It was the biggest financial supporter of the multilateral development banks, and looked forward to the successful conclusion of the Doha Round, which aimed to reduce export subsidies for agricultural products and thereby promote food security and rural development.

7. **Mr. Dixon** (United Kingdom), speaking on behalf of the European Union, asked the Special Rapporteur for his views on the responsibility of individual States to ensure that food aid in fact reached the people for whom it was intended, how the world could prevent a recurrence of the situation that the Niger had experienced, and civil society's role in regard to the right to food.

8. **Ms. Fatouma** (Niger) expressed her country's gratitude for the assistance it had received from the

international community in its recent food crisis, and for the direct interest shown by the Secretary-General.

9. **Mr. Kadangha-Bariki** (Togo) congratulated the Special Rapporteur on his interim report, while noting that famine continued to advance across Africa year by year. He wished to hear comments from the Special Rapporteur on that issue, on the relationship between the countries of the North and the countries of the South and on the measures imposed on certain States.

10. **Mr. Skinner-Klée** (Guatemala) said that malnutrition was the scourge of indigenous communities, and that his Government concurred with the findings presented in paragraph 20 of the Special Rapporteur's interim report (A/60/350). A particular problem was that resources originally intended for food security and nutrition had had to be used instead to cope with emergencies, such as the floods resulting from Hurricane Stan in October 2005. His question for the Special Rapporteur was how developing countries could make progress in the face of the restrictions on international market access.

11. **Mr. Pise** (India) recognized that humanitarian assistance was important, but wondered whether the development of institutions was not equally important, as enhanced institutional capacity could lessen the need for aid.

12. **Mr. Pak** Tok Hun (Democratic People's Republic of Korea) said that his country was expecting good harvests and would no longer require food assistance from abroad. The food assistance received from the international community in the past had been greatly appreciated.

13. **Mr. Cumberbach Miguén** (Cuba) congratulated the Special Rapporteur on his interim report. He wondered what link existed between the international financial institutions and the development of food sufficiency for coping with natural disasters, and what role global warming played in cases where the right to food had not been achieved.

14. **Mr. Jahromi** (Islamic Republic of Iran) asked the Special Rapporteur for his views on what the international community could do to strengthen the right to food in the context of human rights overall.

15. **Ms. Ajamay** (Norway) said that her country was concerned by the mismatch between food production and need — the fact that famine and oversupply could exist in different parts of the globe simultaneously — and she wondered how the question of property rights might be tied in to that problem. Norway supported a rights-based approach to eradicating hunger, but challenged the assertion that organizations such as the World Bank and IMF were under a legal obligation to support human rights.

16. **Ms. Fontana** (Switzerland) asked what the right to food represented in terms of added value, beyond those human rights already recognized.

17. **Ms. Stuewer** (Canada) said that hunger worldwide had been on the increase. Given that voluntary right-to-food guidelines had been adopted a year earlier, she wondered to what extent they had helped.

18. **Mr. Ziegler** (Special Rapporteur on the right to food) responded to the previous speakers by saying that, inasmuch as their questions had touched on a number of overlapping points and only a limited amount of time was available, he would address the issues thematically rather than attempting to answer individual questions.

19. United Nations agencies were deeply riven, as indeed was the academic community, on the merits of the normative approach in safeguarding human rights. On the one hand were countries such as the United States of America and Australia and international organizations such as IMF and the World Trade Organization (WTO) — the so-called Washington consensus of the neoliberals — which said that there was no such thing as a right to food or a right to work, but only a market. For them, four core principles were paramount: liberalization, privatization, macroeconomic stability and budget stability. On the other hand were those who said that people must have rights to certain essentials of social and economic well-being and should be protected from the excesses of the market. In the view of the United States of America, privatization unleashed a spontaneous flow of capital: if everything was privatized, then capital would flow wherever it might be needed. As the world's food markets became completely free, hunger would disappear. As all sources of water were privatized, they would be exploited more efficiently and more rationally. It was a coherent theory, and it had triumphed utterly. Indeed, liberalization had created untold wealth, although it had concentrated that wealth in a very few hands.

20. As the representative of the United States of America had pointed out, that country was by far the biggest food-aid donor, accounting for 65 per cent of all contributions to the World Food Programme (WFP). The need for humanitarian assistance on such a vast scale, however, was precisely the result of neoliberal policies. In the Niger, IMF had required the Government to privatize its agricultural support services, in particular the trucks used to ship farm products and the extension services that gave farmers advice and conducted livestock vaccination programmes. As a direct consequence, farmers were not able to produce as much food and lacked reliable means of distributing it. The policy of the IMF was totally coherent, yet totally catastrophic. A study by Oxfam had identified economic policies adopted under the structural adjustment programmes imposed by IMF as one of the main causes of world hunger. Tellingly, the Bretton Woods institutions had not challenged the Oxfam study.

21. Hunger occurred in two situations: it could be a problem of the moment resulting from an event such as a war, or a flood or a plague of locusts, or it could be structural, invisible, attributable to systemic problems such as a scarcity of inputs or plots of land that were too small. It was the first situation that drew the world's attention and attracted humanitarian aid, yet it accounted for only 10 per cent of the world's hungry. Fully 90 per cent of the world's hungry were in the second situation, afflicted by structural hunger.

22. With respect to the notion of instituting "disciplines" on food aid as part of the Doha Round of trade talks, James Morris, Executive Director of the World Food Programme, was to be applauded for his efforts in urging WTO to abandon the idea.

23. As for the role of civil society, it had indeed been the driving force behind the right to food in India. Non-governmental organizations were essential for the functioning of the United Nations and for ensuring that the requirements of the Universal Declaration of Human Rights were upheld.

24. **Mr. Salama** (Chairman of the Working Group on the Right to Development) said that there had been a real transformation in the approach to the right to development with the new recognition that the human rights situation of peoples was affected not only by domestic policies but also by the international environment, including the policies of other States, that the ability of national legislatures to act unilaterally in policy areas was increasingly limited and that issues of trade, development and human rights were interrelated.

25. Globalization had made the effect of trade and development policies on human rights clear. For the first time there was agreement on a new approach to the issue of the right to development which took into account the interconnectivity of human rights, trade and development. With regard to the right to food, for example, the difficulty in implementing that right was related to structural problems such as subsidies which had a negative effect on food production in the poor countries of the world and therefore contributed to hunger.

26. The Working Group had recognized the need to undertake human rights impact assessments of trade and development policies at the national and international levels, since trade and development policies must not be adopted and implemented in isolation without consideration of their effects. The Office of the United Nations High Commissioner for Human Rights, numerous organizations and various think tanks were in the process of developing tools to measure the impact of trade and development policies on human rights. Those efforts would take time, but he felt it important to address human rights issues such as the right to food and eradication of poverty on a case-by-case basis in order to allow for study of the specific links of those issues to the right to development, which basically implied the elimination of any structural obstacles to development.

27. The Working Group had developed a new conceptual clarity and better methodology concerning the right to development and was starting to produce norms in that regard. Although he understood the concern of some States with regard to new standards and norms, he stressed that implementation of the principles contained in the Declaration on the Right to Development would require a process involving intermediate standards which did not necessarily have to take the form of conventions or new structures. At the methodological level, the Working Group had focused on the governmental aspect of the right to development and had also created a task force of experts to deal with a different development issue every year. The task force had focused on the issue of human rights impact assessments of trade and development policies and would begin work in November on guidelines for international cooperation

in fulfilling the right to development in the light of the experience of countries.

28. He asked the Committee for its guidance on how the Working Group should follow up its conclusions and recommendations with regard to the right to development, including the need for a human rights impact assessment by the international community and States of all policies. In that context he welcomed the fact that for the first time a representative of WTO had participated in the Working Group's discussions which should help spread the message on the need for impact assessments of trade policies. The new Human Rights Council should also be mandated to ensure follow-up to relevant resolutions and implementation of the right to development.

29. He would also welcome the Committee's guidance on specific topics to be dealt with on a case-by-case basis by the Working Group. He did not know, for example, if the primacy of human rights was legally enforceable at the international level with regard to trade and development policies but stressed the moral weight of such considerations. The raising of human rights concerns had the power to embarrass and shame. If there was to be some peer review mechanism for States, the same could be done for international organizations, should Member States so wish.

30. **Mr. Dixon** (United Kingdom), speaking on behalf of the European Union, recalled that the expert of the Subcommission on the Promotion and Protection of Human Rights, Ms. O'Connor, in her concept paper prepared for the Working Group, had concluded that it was not the time to develop binding legal standards on the right to development — a position which the European Union endorsed — and had highlighted other options for improving implementation of the right to development. He asked how the Working Group might take some of those ideas forward and what opportunities there might be for the high-level task force on the right to development, in the context of its discussions of Millennium Development Goal 8, on a global partnership for development, to bring a human rights perspective to consideration of initiatives in the areas of both aid and debt relief.

31. **Mr. La** Yifan (China) expressed great interest in the concept of human rights impact assessments for trade policies and inquired about the relevance of the Special Rapporteur's mandate to the work of WTO, especially in the light of the upcoming ministerial conference in December in Hong Kong.

32. **Mr. Cumberbach Miguén** (Cuba) said that the attitude of some States towards the right to development differed from their attitude towards other internationally recognized rights. There appeared however to have been progress towards recognition of the right to development in 2005, with the publication of the final report of the United Nations Millennium Project, "Investing in development: a practical plan to achieve the Millennium Development Goals" (A/59/727), the so-called Sachs report. He pointed out that the Geneva-based South Centre had extensive information on the effect of development on human rights and the well-being of developing countries. He wondered what the impact of the Sachs report and information such as that available from the South Centre would have on efforts to coordinate the international community's response to its obligations.

33. **Mr. Salama** (Chairman of the Working Group on the Right to Development) said that more must be done to increase awareness of human rights issues outside the relatively narrow context of the United Nations system and inter-agency cooperation. That would be possible if concrete evidence of the positive effects of the implementation of the right to development could be highlighted and if those concerned persevered in ensuring that the outcomes of the Working Group, which were translated into resolutions of the Commission on Human Rights, were effectively followed up and implemented. It was up to States to invoke such resolutions in the context of their international obligations; trade negotiators and ministers should be made aware of human rights obligations and take them into account during trade negotiations. That was what he meant by the national dimension of the implementation of economic, social and cultural rights.

34. He welcomed the fact that for the first time WTO was taking into account the Declaration on the Right to Development. States must also assess their own human rights needs when negotiating trade policies. He saw himself as an unofficial partner of WTO whose role was to inject a human rights perspective in that body's deliberations. That was a step forward towards ensuring there would be a social safety net to minimize the human rights impact of trade policies, based on empirical evidence obtained through an impact assessment of trade policies. It was also necessary to

go beyond narrow national interests and develop a road map to include a human rights perspective in trade policies.

35. He welcomed the work of the Subcommission's expert on the right to development, although he cautioned that there must be adequate coordination among such mechanisms and care must be taken to avoid overstretching available resources. He hoped that the establishment of the Human Rights Council would lead to better management of special mechanisms, and he cited the example of the International Labour Organization (ILO), which established priorities and limited the number of resolutions adopted. He had enjoyed good cooperation with the expert but, since her final report had not yet been submitted, he would refrain from any comment on the substance of her work.

36. As for the implementation of Millennium Development Goal 8, global partnership for development was an important issue which reflected the growing awareness that the right to development and human rights in general were interconnected. The international community must negotiate its priorities for cooperation, for example whether priority should be given to the right to food or to institution-building or to a mix of both. Currently policies tended to be improvised at the national and international levels, but he noted there were increasing calls at the national level for reviews of international cooperation policies; the time had come to take stock and develop guidelines for international cooperation for the right to development.

37. **Mr. Pinheiro** (Special Rapporteur on the situation of human rights in Myanmar), introducing his interim report (A/60/221), said that, despite his many requests, the Government of Myanmar had not given him the opportunity to visit the country since 2003, and he therefore could not reflect its views and policies in his report.

38. The National Convention, now in place for over 12 years, had been convened, yet again, under procedural restrictions, with many key political actors being excluded from the process. Freedom of assembly and association were still not respected or guaranteed and press censorship appeared to be worsening. Intimidation and detention of activists continued, with over 1,100 people currently behind bars for their political beliefs. Aung San Suu Kyi remained in virtual solitary confinement in her house. Some political prisoners were in their late 70s or early 80s. The Government's "road map" to democracy, meanwhile, had no time frame or clear destination and the procedure for holding a referendum and elections had not yet been clarified.

39. The very worrying abuses against Myanmar's ethnic communities had caused some groups to reconsider ceasefire agreements. Should the Government continue to ignore such concerns, there was a risk that such agreements would unravel. Stressing the widespread and systematic human rights violations in Myanmar and the Government's failure to protect its citizens, he said that the machinery of justice, far from upholding citizens' rights, had been used to silence dissent. Reports of forced labour were commonplace and anyone accused of making what the Government deemed to be "false" complaints to the International Labour Organization (ILO) faced prosecution. Forced relocations of entire villages continued, ostensibly to curb the activities of armed opposition groups. The outflow of people fleeing such violations had produced several hundred thousand refugees and a high number of displaced people. Many had become migrant workers in neighbouring countries.

40. Calls for economic reform had been unsuccessful and the economy continued to spiral downwards as daily commodities rapidly became unaffordable. By postponing the normalization of the political environment, the Government was arresting the country's development and preventing its rich potential from being tapped. Trafficking, another pressing problem, had a major impact on both Myanmar and its neighbours. There was also serious concern at the increasing rate of HIV/AIDS infection in Myanmar, which was now spreading to its neighbours. Unfortunately for the people of Myanmar, increased restrictions on its operations had led the Global Fund for HIV/AIDS, Tuberculosis and Malaria to take the very regrettable — and in his view wrong — decision to withdraw from the country. The increased scrutiny and excessive bureaucratic restrictions to which humanitarian organizations were being subjected should not deter the international community from its duty to respond to the humanitarian crisis in Myanmar, as the ability to provide assistance when and where it was required and to assess needs was a key humanitarian value that all Member States were bound

to uphold. Assistance must not be held hostage to politics. He therefore urged the international community to step up its assistance and not to back away from supporting the people of Myanmar.

41. Although its patience was being tested, the international community must not give up, for it had a duty to find a constructive way out of the current impasse, for the sake of the people within Myanmar who were striving to improve their own situation. In that connection, he emphasized the importance of dialogue, as opposed to "megaphone diplomacy"; the key role of other countries in the region; and the need to bring about change through an indigenous process with the support of the international community. The current leadership in Myanmar seemed to be moving towards further international isolation. The friends and neighbours of Myanmar should demonstrate that such action was a serious mistake which was causing significant damage internally and blighting the region's reputation and prospects for prosperity and stability. No country could afford to live in isolation in today's interdependent world. The United Nations and the international community as a whole stood ready to work with the Government, political parties and civil society organizations to facilitate national reconciliation and the democratic transition. In strengthening its cooperation with international organizations, the Government could be assured of support in the area of conflict resolution, political and economic reform, humanitarian assistance and human development.

42. **Mr. Mra** (Myanmar), reiterating his Government's consistent policy of cooperation with the United Nations, as demonstrated by the fact that it had allowed the Special Rapporteur to visit the country six times since his appointment, said that it was important for special rapporteurs to stay within their mandate and act on the basis of objectivity, non-selectivity and impartiality. The Special Rapporteur's interim report to the General Assembly (A/60/221) was very intrusive and completely lacking in objectivity, non-selectivity and impartiality, and went beyond his mandate to examine the situation of human rights in Myanmar and report to the General Assembly and the Commission on Human Rights.

43. Referring delegations to the statement of his delegation that had been circulated, which gave a more detailed picture of his Government's position, he said that his Government rejected a number of aspects of the report, in particular, the criticism concerning the National Convention process (paras. 12-39), which had enjoyed the overwhelming participation of delegates from all strata of society; the negative notion with regard to the socio-economic situation in the country (paras. 57-64); the claim (para. 6) that the Special Rapporteur had collected information from "reliable sources", when such information originated from anti-Government groups that sought to discredit the Government; the baseless allegations of sexual violence against ethnic women and children and sexual slavery (para. 72), which went against Myanmar's culture; allegations that there were thousands of internally displaced persons owing to the armed conflict (para. 82), when peace and tranquillity prevailed throughout the country; the description of refugees at the Myanmar-Thailand border (para. 89), when the Myanmar and Thai authorities had come to an understanding to resolve the issue; the characterization of people in northern Rakhine state as "Rohingya" (para. 79) or allegations regarding their mistreatment, when programmes had been set up to ensure their well-being; and the allegation (para. 79) that mosques had been destroyed, when in Myanmar there was no discrimination based on religion and all religious groups enjoyed the right to freedom of worship or belief and the right to establish and maintain edifices for such purposes.

44. His Government remained committed to cooperating with the United Nations agencies in Myanmar in accordance with the memorandums of understanding that its Ministries had signed with them. He also categorically stated that there were no systematic human rights violations in Myanmar, for his Government was committed to promoting and protecting human rights. Noting his Government's high regard for the Special Rapporteur's professional qualities and his comments regarding Myanmar, he said that, although his Government could not accommodate the Special Rapporteur's request to visit the country at the present time, its commitment to cooperate with the United Nations remained unchanged, provided Myanmar's national interests and sovereignty were not infringed upon. Lastly, he agreed with the Special Rapporteur that the process of finding a solution should be an indigenous one.

45. **Ms. García-Matos** (Bolivarian Republic of Venezuela) said that her delegation would appreciate more information concerning the Special Rapporteur's

sources (para. 6), given that the Government of Myanmar had said that his sources were anti-Government groups and since human rights NGOs were financed by developed countries, which had their own political agenda. She also wished to know how the Special Rapporteur could continue with his mandate when there was no clear harmony between his mandate and the Government of Myanmar.

46. **Ms. Stuewer** (Canada) said that her delegation was aware that Burma/Myanmar had had a poor record of cooperation with the international community, in particular with ILO, had failed to implement United Nations resolutions and had continued to deny visas to the Special Envoy of the Secretary-General for Myanmar and the Special Rapporteur.

47. **Mr. Cumberbach Miguén** (Cuba), speaking on a point of order, said that the official name of the country in question was Myanmar.

48. **Mr. Mra** (Myanmar), endorsing the point made by the representative of Cuba, said that the Committee was discussing the report on Myanmar and it should therefore be addressed as such. He asked the Chairman to ensure that delegations referred to countries by their proper names.

49. **The Chairman** appealed to delegations to use the official country name, Myanmar.

50. **Ms. Stuewer** (Canada), continuing her statement, said that her delegation was curious to know what the Special Rapporteur considered to be the most effective way of dealing with the human rights violations being committed by Myanmar, when the Government seemed to be increasingly inward-looking.

51. **Mr. Adji** (Indonesia), referring to the statement in the report (para. 61) that HIV/AIDS had now exceeded the benchmark of a generalized epidemic, with a doubling of the prevalence rate among the adult population over the past two years, and to the Special Rapporteur's comment that the Global Fund had withdrawn from the country, said that it would be interesting to learn what impact that withdrawal would have on efforts to combat HIV/AIDS, tuberculosis and malaria and what the international community should do to avoid jeopardizing such efforts.

52. **Mr. Dixon** (United Kingdom), speaking on behalf of the European Union, said that he wished to know whether there had been any follow-up to the 17 communications sent to the Government of Myanmar (para. 11); what measures had been taken by the Government of Myanmar to implement its road map; what measures should be taken to ensure that the result of the National Convention was credible; how the demands of minority representatives had been met in that regard; and what progress had been made regarding implementation of the national plan of action to prevent the recruitment of child soldiers (para. 71).

53. **Ms. Plaisted** (United States of America) said that her delegation was curious as to whether the United Nations was planning to address the increasing restrictions on humanitarian NGOs operating inside Myanmar. Noting that the Government of Myanmar had taken action against ethnic minority Christians and that both Christian and Muslim groups experienced difficulties in importing religious literature and obtaining permission to build, maintain or modify their places of worship, she asked how the Special Rapporteur could best address the regime's intolerance of minority religions.

54. **Mr. Pinheiro** (Special Rapporteur on the situation of human rights in Myanmar), responding to the representative of the Bolivarian Republic of Venezuela, said that he never published a list of his sources. What he wrote was his responsibility. Of course, his sources were no secret either and included the United Nations country team in Myanmar and NGOs. While he did not have a conspiratorial concept of civil society — there were, after all, some very serious NGOs working in the human rights community — he nonetheless carefully evaluated all the information he received. Now that his mandate was about to expire, he could not answer her question concerning the future working of his mandate. He would say, however, that it was impossible to do a serious job without access to the country and that it was not in a Government's interests to deny visits. Special rapporteurs were intermediaries, not enemies. He therefore hoped that the Government of Myanmar would allow the new Special Rapporteur to visit the country.

55. Responding to the representative of Canada, he said that he believed in dialogue, not in isolation and what he referred to as "megaphone diplomacy". It was important to keep insisting, while at the same time being patient and not forgetting the importance of diplomacy. There was no need for yet further reports and resolutions, as everyone was aware of the situation. Now was the time for coordination. Friendly

countries must convince the Government of Myanmar that it was in its interests to be in contact with the international community.

56. Regarding the question raised by the representative of Indonesia, he would merely say that the Global Fund's decision to withdraw from the country was most regrettable. Of course the Government of Myanmar was imposing bureaucratic requirements, but international agencies should learn to live with them, rather than use them as a pretext for withdrawing from the country.

57. As for the questions put by the representative of the United Kingdom, he said that he had not received a response to the 17 communications sent to the Government. Turning to the second question, he said that democratic transitions were long processes. However, some basic freedoms — such as the freedom of assembly and expression — were nonetheless required. Those elements were not present in Myanmar. For the road map to be implemented properly, the procedure for holding a referendum and elections and for drafting the Constitution needed to be defined. The next convening of the National Convention could perhaps be the place for that. He could not confirm reports concerning the dissatisfaction of ceasefire groups, for they were just rumours. Lastly, while he welcomed the national plan of action to prevent the recruitment of child soldiers, he could not report on its implementation.

58. **Mr. Nordlander** (Sweden) said that he had recently received two reports from major humanitarian NGOs concerning the ethnic communities that made up the border populations in the east and west of Myanmar and the majority of its internally displaced persons. According to those reports, during the past year 87,000 people had been forced to leave their homes and 68 villages had been destroyed; of the 540,000 people who were internally displaced, 92,000 were in hiding in the jungle. That information, if correct, was extremely worrying. He wondered whether the Special Rapporteur had had an opportunity to study further the situation of ethnic communities in Myanmar.

59. **Mr. La** Yifan (China) said that his delegation took note of the Special Rapporteur's interim report (A/60/221) and statement, some of which was highly relevant. His delegation endorsed the call for continued assistance to the people of Myanmar, stressing the importance of working in partnership with Myanmar. Myanmar was a least developed country with complicated problems. His delegation appreciated the efforts by the Government of Myanmar in the area of national reconciliation and economic development and took note of its openness regarding cooperation with the international community, as demonstrated by the fact that the Government of Myanmar had received the Special Rapporteur on six occasions and had recently been in contact with the Special Envoy of the Secretary-General for Myanmar. His delegation believed that that positive attitude would continue.

60. **Mr. Pak** Tok Hun (Democratic People's Republic of Korea), recalling the Special Rapporteur's expression of grave concern at the human rights situation in Myanmar and the comment by the representative of Myanmar that his Government was worried about its national interests and sovereignty being infringed upon, and noting that there had been no visit by the Special Rapporteur since 2003, said that his delegation wondered whether the Special Rapporteur had taken the interests of Myanmar into account in his work and sought to resolve their differences.

61. **Mr. Kitaoka** (Japan) said it was regrettable that Myanmar had not accepted the visits of either the Special Rapporteur or the Special Envoy of the Secretary-General. He believed that dialogue should continue and wondered what further assistance the international agencies, such as the United Nations Children's Fund (UNICEF) and the ILO, or the United Nations could extend and in which fields. It might be interesting to envisage a humanitarian coordinator. He had noted the reduction in opium cultivation and wondered how much of that initiative had come from Myanmar itself.

62. **Mr. Cumberbach Miguén** (Cuba) said that Special Rapporteurs were only mediators if their policies were impartial. Any measures to improve living conditions should be carried out in collaboration with the national authorities and should not be conflictual. He asked to what extent the Special Rapporteur had seen evidence of foreign interventions that might create obstacles to human development in Myanmar.

63. **Mr. Mra** (Myanmar) reiterated his country's commitment to cooperate with the United Nations, provided that it was not detrimental to its interests. The Special Rapporteur had visited Myanmar six times

since his appointment, and the Special Envoy 14 times. The Special Adviser to the Director-General of the International Labour Organization had recently had discussions with the Minister of Labour in Myanmar and he hoped that such cooperation would continue, although it must be free of any politicization.

64. **Mr. Pinheiro** (Special Rapporteur on the situation of human rights in Myanmar), responding to comments, said that he had taken note of the recent reports on the ethnic communities but did not have reliable figures as his sources of information were inadequate.

65. He thanked the representative of China for expressing the need for continued assistance to the people of Myanmar. As Special Rapporteur, his mandate, which was based on universal principles that the Member States themselves had accepted, was to take into account the interests of the Government and the people of Myanmar. He had shared with the Government of Myanmar some elements that would help it advance along the "road map" for democracy, a process initiated by the country itself. As to the reduction of opium cultivation, there had been a political will on the part Myanmar to achieve that goal, in cooperation with the international community.

66. On the subject of foreign intervention, he said that there was no evidence of foreign elements. A clear will existed in the region, and indeed throughout the international community, to work together with Myanmar and to contribute to the development of the country. With respect to the comment by the representative of Myanmar regarding alleged inaccuracies in his report, he observed that if he had had access to the country his observations might have been very different following a dialogue in Yangon instead of New York.

67. **Mr. Muntarbhorn** (Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea) said that he had not been invited to the Democratic People's Republic of Korea and had thus based his report on information from a variety of governmental, non-governmental and intergovernmental sources.

68. A number of constructive elements could be reported regarding the situation of human rights in the Democratic People's Republic of Korea. The country was a party to four key human rights treaties: the two International Covenants on Human Rights, the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women. It had cooperated with various United Nations agencies. In 2005, it had launched its first National Child Health Day with the United Nations Children's Fund (UNICEF), which had enabled some two million children to receive vitamin A supplements and other health services, and had invited members of the Committee on the Rights of the Child to visit the country. Like many other countries, it already had some legal and operational infrastructures which could help to promote and protect human rights, including the Constitution of 1972 and its amendments of 1992, 1998 and other national laws. In 2004, the Penal Code had been revised to reflect the international principle of ***nullum crimen sine lege*** (no crime without a law).

69. However, there were key challenges concerning implementation of human rights. The problem of denuclearization posed a long-standing intricate issue for the international community as a whole, and a resumption of the talks between the various key parties in 2005 would be welcomed.

70. With regard to the right to food and the right to life, catastrophic food shortages brought about by floods and drought had occurred during the mid-1990s, compounded by power imbalances and inadequate response from the power structure. There was a general feeling that the situation in 2005 remained critical. In 2004 the Democratic People's Republic of Korea had indicated that it was no longer willing to continue with the Consolidated Appeals Process through which United Nations agencies had collaborated to raise support for aid to the country. There were continuing debates concerning how much of the food aid provided from abroad actually reached the target population. While some monitoring of the distribution of food was in place, the Special Rapporteur believed that there should be more effective monitoring aimed at ensuring maximum transparency and accountability. Random checks by foreign humanitarian organizations were still not permitted by the national authorities. The Democratic People's Republic of Korea also had a responsibility to reduce military and defence expenditure and ensure an equitable reallocation of resources to respond to the food crisis and other critical areas. He was also concerned that the authorities were planning to stop food aid from international

humanitarian organizations by the end of 2005, and to ask a number of them to leave the country.

71. There were many reports concerning alleged violations of the right to security of person, humane treatment, non-discrimination and access to justice. Prisons and detention centres were below international standards, and such practices as preventive or administrative detention without access to the courts were widespread. The practice of collective punishment, where members of the family of a person punished for a political or ideological crime were also punished, had been documented by various sources. The authorities had admitted to abducting a number of Japanese nationals. According to information received, other nationals had also been abducted.

72. The right to freedom of movement and asylum, as well as protection of persons linked with displacement, were also matters of concern. Strict controls were imposed on the movement of people, and a traveller's certificate had to be obtained to move from one area of the country to another. Nationals of the Democratic People's Republic of Korea had crossed national borders for two main reasons: political persecution and the food crisis. Furthermore, persons who had left the country without an exit visa might be punished upon return.

73. While the national authorities claimed that there were freedom of information, freedom of expression and opinion and freedom of association and religion, the reality often indicated the contrary. With regard to freedom of religion, although there were some reports of liberalization, the extent to which it was genuine was uncertain. Many sources indicated that not only were religious personnel persecuted but also those who associated with them.

74. With regard to the rights of women and children, there had been major achievements in both areas before the food crisis, which had begun in 1995. However, a large number of mothers had suffered from the food shortage since the mid-1990s and their nutritional status had not improved. There was also the issue of violence against women, which occurred both at home and within the family. A 2004 survey on the food and nutrition situation indicated that there had been a decline in child malnutrition, but the figures were still high.

75. During the past year, the Special Rapporteur had paid two country visits, to Japan and Mongolia. He wished to express his deep concern over the issue of abducted persons from Japan and called upon the Democratic People's Republic of Korea to respond effectively and expeditiously to Japan's claim that there were a number of Japanese nationals abducted who were still alive in the country. They should be returned to Japan immediately and in safety. With respect to Mongolia, the Special Rapporteur said that Mongolia should continue to maintain its humanitarian policy and practice in sheltering those who sought refuge in the country; accede to the Convention relating to the Status of Refugees and its Protocol; adjust the country's laws, policies and mechanisms accordingly; and continue to treat persons who were trafficked or smuggled as victims.

76. To promote and protect human rights in the Democratic People's Republic of Korea, the Government must abide by international human rights standards, including the four human rights treaties to which it was a party, and implement other relevant treaties. It must uphold human rights together with democracy, peace, sustainable development and demilitarization, with greater space for civil society participation at all levels of decision-making. There must be respect for the rule of law, particularly the promotion of an independent and transparent judiciary, with safeguards for detainees and protection against the abuse of power, along with reform of the administration of justice, particularly improvements in the prison system and the abolition of capital and corporal punishment. The root causes of displacement must be addressed and the right to freedom of movement guaranteed, without imposing sanctions on those who moved without permission. The Government must also provide redress through expeditious and effective processes in the case of transgressions, such as in the relation to the abductions of foreign nationals. It should conduct proactive programmes of human rights education, with gender-and-child sensibility and critical analysis, aimed at both law enforcers and the public. Humanitarian assistance, including food aid, should be sustained and reach the target groups, with unimpeded access for monitoring and accountability. The Special Rapporteur and other mechanisms, as appropriate, should be invited to visit the country to take stock of the human rights situation and recommend reforms. Technical assistance from the Office of the High Commissioner for Human Rights and other agencies as appropriate should be sought to support activities to protect human rights.

77. **Ms. Stuewer** (Canada), referring to the oral report of the Special Rapporteur, expressed her concern that he had not been authorized to visit the Democratic People's Republic of Korea. She urged North Korean authorities to allow him and all other relevant Special Rapporteurs, including the Special Rapporteur on torture, free and unlimited access to the country's population.

78. **Mr. Pak** Tok Hun (Democratic People's Republic of Korea), speaking on a point of order, said that the proper terminology should be used with respect to his country, which was called the Democratic People's Republic of Korea.

79. **Ms. Stuewer** (Canada), continuing with her statement, expressed her deep concern at the reports of internment, torture and execution of nationals of the Democratic People's Republic of Korea who had been repatriated from abroad. She would like to know what specific steps the international community could take to ensure the safety and security of refugees. She recognized the Special Rapporteur's efforts to expand on the subject of women's rights and wondered whether he had perceived a trend towards particular types of violations. She noted that the Special Rapporteur on violence against women had been invited to visit the Democratic People's Republic of Korea and asked the Special Rapporteur what he believed could be done to encourage that thematic visit.

80. **Ms. Plaisted** (United States of America) said that she would welcome additional information on any efforts the Special Rapporteur had made to try to start a dialogue with the Democratic People's Republic of Korea. She asked if he had had any direct contact with the representatives of that country and what the international community could do to support his role. She had noted with interest his recommendations on improving the human rights situation and wondered what he believed should be the first steps the Democratic People's Republic of Korea should take. It would also be interesting to know what his top priorities were.

81. **Ms. Fontana** (Switzerland), referring to the Special Rapporteur's country visits to Japan and Mongolia, asked him if he was planning or considered it useful to conduct similar missions in other countries in the region. She would like to know what he felt might be the negative repercussions on the human rights situation of the recent decision taken by the Government of the Democratic People's Republic of Korea to put an end to humanitarian assistance at the end of 2005.

82. **Mr. Wood** (United Kingdom), speaking on behalf of the European Union, recalled the commitment of all States to cooperate with the special procedures of the Commission on Human Rights and would appreciate any information regarding the Special Rapporteur's contacts with the Government of the Democratic People's Republic of Korea. Deeply concerned by the humanitarian situation in the country, and in particular by the limitations placed on access to the population by non-governmental organizations and United Nations humanitarian agencies, he asked for the Special Rapporteur's current assessment of the situation. The European Union attached particular importance to freedom of expression and freedom of religion and belief and would welcome any information the Special Rapporteur might have on the situation in the Democratic People's Republic of Korea in that area. His report had highlighted the issue of asylum and recommended that the granting of asylum to those leaving the Democratic People's Republic of Korea should not be regarded as an unfriendly act. It would be interesting to learn how that recommendation might be made operational. The report had also highlighted the need for effective monitoring of humanitarian assistance to ensure that access to such assistance was equitable, and he wondered how the Special Rapporteur thought that goal might be best achieved.

83. **Mr. Kitaoka** (Japan) strongly urged the Democratic People's Republic of Korea to respond to the concerns of the international community, especially with regard to the abduction of nationals. He would be interested to know what areas of the report the Special Rapporteur had found most problematical, and what he planned to do from now until the end of his mandate.

84. **Mr. Saeed** (Sudan) said that Special Rapporteurs should be neutral and objective. Their role was to serve as intermediaries to ensure respect for human rights and they must avoid falling prey to any particular interests of forces.

The meeting rose at 6.15 p.m.